

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

IN RE:

Tyrone L. Weeks,

Debtor.

Case No.: 11-46043

Chapter 13

Hon.: Marci B. McIvor

/

Shaheen, Jacobs & Ross, P.C. is a debt collector. We are seeking to collect a debt and any information obtained will be used to collect that debt.

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY AS TO CREDITOR TCF NATIONAL BANK AND TO MODIFY THE AUTOMATIC STAY AS TO CO-DEBTOR MARISOL MORALES-WEEKS AND WAIVING THE PROVISIONS OF FRBP 4001(A)(3)**

NOW COMES TCF National Bank, a national banking association, by and through its attorneys Shaheen, Jacobs & Ross, P.C., and for its motion for relief from the automatic stay and to modify the automatic stay as to Co-Debtor Marisol Morales-Weeks, hereby states as follows:

1. TCF National Bank, a national banking association, ("Bank") has an office located at 17440 College Parkway, 604-02K, Livonia, MI 48152-2363.
2. Tyrone L. Weeks ("Debtor") is an individual residing at 5134 Breckenridge Drive, Ypsilanti, Michigan 48197. The Debtor commenced this case by filing a voluntary petition under Chapter 13 of the Bankruptcy Code on March 7, 2011. The Debtor and Marisol Morales-Weeks ("Co-Debtor") had a previous pending Chapter 13 case (Eastern District of Michigan Case No.: 10-68807), which was dismissed on February 16, 2011 for failure to appear at their confirmation hearing. The Co-Debtor has a pending Chapter 7 Bankruptcy Case (Eastern District of Michigan Case No.: 11-44458) and the Bank is seeking relief from the automatic stay in that case.
3. David Wm Ruskin is the standing Chapter 13 Trustee in this matter.
4. Bank is a secured creditor of the Debtor, in part, by reason of the Debtor and Co-Debtor executing and delivering a Real Estate and Non Real Estate Secured and Unsecured Fixed or Variable Rate Note & Security Agreement Closed End in the face amount of \$107,500.00 ("Agreement") to Bank secured by a Mortgage signed by the Debtor and Co-Debtor. Bank holds a valid and recorded Mortgage on the Debtor and Co-Debtor's property commonly known as 714 Desoto Avenue, Ypsilanti,

Michigan 48197 ("Property"). A copy of the Agreement and Mortgage are attached hereto as Exhibits "B" and "C", respectively.

5. Debtor and Co-Debtor are in default under the terms and conditions of the Agreement and Mortgage for the reason, among others, that Bank has failed to receive the monthly payments as required under the Agreement, which is currently past due for October 15, 2010 through February 15, 2011 in the aggregate amount of \$2,890.95.

6. As of March 8, 2011, Bank was owed approximately \$99,981.73 under the Agreement and Mortgage, plus accruing interest and costs, including reasonable attorney fees from that date.

7. According to the Debtor's schedules, the fair market value of the Property is believed to be approximately \$50,000.

8. Upon information and belief, Marisol Morales-Weeks may also have an interest in the subject real property.

9. The Debtor's Chapter 13 plan proposes to pay the Bank the a continuing monthly payment of \$636.00 as to the Agreement. However, the Debtor's plan does not provide for payment of the pre-petition arrears under the Agreement of \$2,890.95.

10. That pursuant to 11 U.S.C. §362(d)(1), the court shall grant relief from the automatic stay for cause, including lack of adequate protection of an interest in property of a party of interest.

11. Bank's interest in its collateral is not being adequately protected for the reason, among others, that the Debtor's plan does not provide for payment of the Bank's pre-petition arrears under the Agreement.

12. Upon information and belief, Debtor, Marisol Morales-Weeks and the Bank may have an interest in the aforementioned real property.

13. That pursuant to 11 U.S.C. §1301(c)(3), a creditor may obtain relief from the co-debtor stay if such creditor's interest would be irreparably harmed by continuation of such stay.

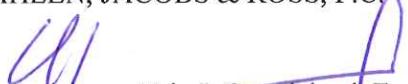
14. Bank's interest would be irreparably harmed for the reason, among others, that the Debtor's plan does not provide for payment of the Bank's pre-petition arrears under the Agreement. Thus, Bank is requesting relief from the co-debtor stay to enforce its lien and/or proceed against the borrowers.

15. On March 10, 2011, Bank's counsel attempted to contact Debtor's counsel to seek concurrence in reference to the relief sought in this motion. As of the filing of this motion, Bank's counsel has not received concurrence to the relief sought in its motion.

**WHEREFORE**, TCF National Bank, a national banking association, respectfully requests that this Honorable Court enter the order attached hereto as Exhibit "A" granting the Bank Relief from the Automatic Stay pursuant to 11 U.S.C. §§362(d)(1), Modifying the Automatic Stay as to Co-Debtor Marisol Morales-Weeks, waiving the provisions of FRBP 4001(a)(3) and granting such further relief that the court shall deem just and equitable.

Respectfully submitted,

SHAHEEN, JACOBS & ROSS, P.C.

By:   
Eric J. Carmichael (P69851)  
Attorneys for Creditor TCF National Bank  
1425 Ford Building, 615 Griswold Street  
Detroit, Michigan 48226-3993  
(313) 963-1301  
[ecarmichael@sjrlaw.com](mailto:ecarmichael@sjrlaw.com)

Dated: March 14, 2011

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

IN RE:

Tyrone L. Weeks,

Debtor.

Case No.: 11-46043

Chapter 13

Hon.: Marci B. McIvor

**ORDER FOR RELIEF FROM AUTOMATIC STAY AS TO DEBTOR TYRONE L. WEEKS,  
MODIFYING THE AUTOMATIC STAY AS TO CO-DEBTOR MARISOL  
MORALES-WEEKS AND WAIVING THE PROVISIONS OF FRBP 4001(A)(3)**

Creditor TCF National Bank, a national banking association, by and through its attorneys, Shaheen, Jacobs & Ross, P.C., having filed a Motion for Relief from the Automatic Stay and to Modify the Automatic Stay as to Co-Debtor Marisol Morales-Weeks with respect to the real property commonly known as 714 Desoto Avenue, Ypsilanti, Michigan; no parties having filed an objection to the said motion, the appropriate time period for objecting to the motion having expired; the Court finding that the Bank's interest in its collateral is not being adequately protected and cause exists to nullify the automatic stay as to Bank; the court further finding that the Creditor's interest in the collateral would be irreparably harmed by the continuation of the co-debtor stay; and the court being otherwise fully advised in the premises;

**IT IS HEREBY ORDERED**, that the automatic stay as to Creditor TCF National Bank, a national banking association, and/or its successors and assigns, is hereby lifted. In the event Creditor deems the Property is physically abandoned by the debtor(s)/homeowner(s)/occupant(s), Creditor may also seek to shorten the Michigan post foreclosure statutory redemption period to the extent permitted by law. Creditor and/or its successors and assigns may, at its option, offer and enter into any forbearance arrangements, loan modification, refinance agreement or any other documents which relate to a loan workout or loss mitigation arrangement with the Debtor(s) which may also affect the collateral securing any loans with Creditor.

EXHIBIT "A"

**IT IS HEREBY ORDERED**, that the automatic stay of action against Co-Debtor Marisol Morales-Weeks is modified pursuant to 11 U.S.C. §1301 to the extent necessary and appropriate to allow Creditor TCF National Bank to act, commence or continue any civil action to collect the debt from the co-debtor and/or to enforce its rights against any collateral in which the co-debtor has an interest.

**IT IS HEREBY ORDERED**, this order is effective immediately upon entry by this Court notwithstanding the provisions of FRBP 4001(a)(3) and this order shall be binding and effective despite any conversion of this bankruptcy case to any other chapter under Title 11 of the United States Bankruptcy Code.

EXHIBIT "A"

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

IN RE:

Tyrone L. Weeks,

Debtor.

Case No.: 11-46043

Chapter 13

Hon.: Marci B. McIvor

**NOTICE OF CREDITOR TCF NATIONAL BANK'S MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND TO MODIFY THE AUTOMATIC STAY AS TO CO-DEBTOR MARISOL MORALES-WEEKS AND WAIVING THE PROVISIONS OF FRBP 4001(A)(3)**

Creditor TCF National Bank, a national banking association, has filed papers with the court for relief from the automatic stay, to modify the co-debtor stay and to waive the provisions for FRBP 4001(a)(3) with regard to the above captioned bankruptcy case.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the relief, or if you want the court to consider your views on the motion, within fourteen (14) days, you or your attorney must:

1. File with the court a written response, objection or an answer, explaining your position at: United States Bankruptcy Court, Eastern District, Southern Division, 211 West Fort Street, 21<sup>st</sup> Floor, Detroit, Michigan 48226. <sup>1</sup> If you mail your response to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above.

You must also mail a copy to:

Mr. Tyrone Weeks  
5134 Breckenridge Drive  
Ypsilanti, Michigan 48197

US Trustee  
211 West Fort Street, Ste 700  
Detroit, Michigan 48226

Ms. Marisol Morales-Weeks  
4892 North Ashford Way  
Ypsilanti, Michigan 48197

Kenneth S. Sebree, Esq.  
500 Griswold, Ste. 3420  
Detroit, Michigan 48226

David Wm Ruskin, Trustee  
26555 Evergreen Rd., Ste. 1100  
Southfield, Michigan 48076

Shaheen, Jacobs & Ross, P.C.  
Eric J. Carmichael (P69851)  
615 Griswold, 1425 Ford Bldg.  
Detroit, Michigan 48226

<sup>1</sup> Response or answer must comply with F.R. Civ. P. 8(b), (c) and (e).

2. If a response or answer is timely filed and served, the clerk will schedule a hearing on the motion and you will be served with a notice of the date, time and location of the hearing.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Date: March 14, 2011

SHAHEEN, JACOBS & ROSS, P.C.

By: /s/ Eric J. Carmichael, Esq.

Eric J. Carmichael (P69851)

Attorneys for Creditor TCF National Bank  
1425 Ford Building, 615 Griswold Street  
Detroit, Michigan 48226-3993  
(313) 963-1301  
[ecarmichael@sjrlaw.com](mailto:ecarmichael@sjrlaw.com)

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
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IN RE:

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Hon.: Marci B. McIvor

## CERTIFICATE OF SERVICE

STATE OF MICHIGAN )  
 ) ss  
COUNTY OF WAYNE )

Lori Meadows, being first duly sworn, deposes, states and certifies that March 14, 2011, she did serve a copy of the following documents: Notice of Creditor's Motion for Relief from the Automatic Stay and to Modify Automatic Stay as to Co-Debtor Marisol Morales-Weeks and Waiving the Provisions of FRBP 4001(a)(3), Motion for Relief from the Automatic Stay as to Creditor TCF National Bank and Motion to Modify Automatic Stay as to Co-Debtor Marisol Morales-Weeks and Waiving the Provisions of FRBP 4001(a)(3) and this Certificate of Service upon the following ECF participants:

Kenneth S. Sebree, Esq.  
500 Griswold, Ste. 3420  
Detroit, Michigan 48226

David Wm Ruskin, Trustee  
26555 Evergreen Rd., Ste. 1100  
Southfield, Michigan 48076

by using the ECF system and by placing said documents into envelopes addressed to the above listed individuals, postage fully prepaid thereon, and depositing said envelopes in the U.S. Mail receptacle in Detroit, Michigan.

and I hereby certify that the aforementioned documents were also served upon the following non-ECF participants:

Mr. Tyrone Weeks  
5134 Breckenridge Drive  
Ypsilanti, Michigan 48197

Ms. Marisol Morales-Weeks  
4892 North Ashford Way  
Ypsilanti, Michigan 48197

US Trustee  
211 West Fort Street, Ste 700  
Detroit, Michigan 48226

by placing said documents into envelopes addressed to the above listed individuals, postage fully prepaid thereon, and depositing said envelopes in the U.S. Mail receptacle in Detroit, Michigan.

*Lori Meadows*  
/s/ Lori Meadows

Lori Meadows, Secretary  
Shaheen, Jacobs & Ross, P.C.  
1425 Ford Building, 615 Griswold St.  
Detroit, Michigan 48226  
(313) 963-1301  
lmeadows@sjrlaw.com

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN

In re:

Tyrone L. Weeks,

Case No. 11-46043  
Chapter 13  
Hon. Marci B. McIvor

Debtor

STATEMENT OF TCF NATIONAL BANK  
REGARDING  
CORPORATE OWNERSHIP

The following entities directly or indirectly own 10% or more of any class of the TCF NATIONAL BANK'S equity interest:

Name: TCF Financial Corporation  
Address: 200 Lake Street East, Wayzata, Minnesota 55391-1693

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

(For additional names, attach an addendum to this form)

There are no entities that directly or indirectly own 10% or more of any class of the TCF NATIONAL BANK equity interest.

The undersigned entity is the:

Creditor  
 Plaintiff  
 Defendant

Dated: 3/14/11

  
\_\_\_\_\_  
Signature of Authorized Individual  
For Creditor TCF NATIONAL BANK

Eric J. Carmichael, Esq. (P69851)  
Print Name

\_\_\_\_\_  
Attorneys for Creditor TCF National Bank  
Title